

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH

AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIFTH DAY OF APRIL  
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE G. BIKSHAPATHY**

**and**

**THE HON'BLE MR JUSTICE P.S.NARAYANA**

**WRIT PETITION NO : 14941 of 1999**

Between:

M.Ramalinga Reddy s/o M.Basi Reddy  
Integrated Check Post (ICP), bheemulavaaripalem,  
Thada Mandal, Nellore District.

**..... PETITIONER**

AND

- 1 A.P Administrative Tribunal, Hyderabad.
- 2 Divisional Forest Officer , Nellore District,  
Nellore .
- 3 District Employment Officer Nellore District,  
Nellore.
- 4 Govt. Of A.P rep by Forest Department  
Hyderabad.

**.....RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ petition of Certiorari or any other appropriate writ and quash the judgment of A.P Administrative Tribunal in O.A.No. 5409 of 1994 dt :5-5-99 and consequently declare that the findings recorded by the 3rd respondent in letter No.A2/791/78 dt:24-8-93, which are adverse to the petitioner , as illegal and direct the respondents 2 to 4 to allow all service benefits to the petitioner including arrears of wages , seniority etc. from date of appointment.

**Counsel for the Petitioner:MR.V.VENKATARAMANA**

**Counsel for the Respondents : GP FOR SERVICES I**

**The Court made the following :**

**ORDER** (Per Hon'ble Sri Justice G.Bikshapathy)

This writ petition is filed challenging the order passed by the Tribunal in O.A.No.5409 of 1994 dated 5.5.1999. Petitioner is the applicant before the Tribunal.

2. Petitioner was sponsored by the Employment Exchange, Nellore for appointment to the post of Forester and he was selected in the year 1978 and was placed at Sr.No.3 in the merit list. Since, he was not given any appointment, he filed R.P.No.192/1980 before the A.P. Administrative Tribunal for issuing appointment order. By order dated 1.4.1981, the Tribunal directed the authorities to conduct the enquiry within one month and that if no enquiry is conducted, directed that the petitioner shall be given appointment. Since neither any enquiry was conducted, nor appointment was given, petitioner filed W.P.No.743/1982 for appropriate relief. By virtue of the interim orders of this court dated 24.3.1982, the petitioner was appointed as Forester. But the writ petition came to be dismissed on 10.4.1987 on the ground that the writ petition is not maintainable. Subsequently thereafter, the petitioner filed R.P.No.2678/1987 and the said petition was disposed of on 29.9.1989 with certain directions. Since the directions granted in the aforesaid R.P. were not implemented, petitioner filed W.P.No.5493/1990 and the same was disposed of on 24.12.1992. In the meanwhile, it appears that the report was sent by the Employment Officer to the Divisional Forest Officer, Nellore holding the petitioner guilty of misconduct. Challenging the said report, petitioner filed O.A.No.5409/1994. During the pendency

of the O.A., the petitioner was issued with a show cause notice of removal. Petitioner, thereafter amended the prayer, making challenging to the said show cause notice. However, the O.A. was disposed of with a direction that the petitioner shall file an explanation to the show cause notice and final orders shall be passed by the 1<sup>st</sup> respondent accordingly. Aggrieved by the said order, the present writ petition has been filed by the petitioner.

3 . The learned counsel for the petitioner submits that the entire action initiated against the petitioner is wholly unsustainable, as the same is in gross violation of principles of natural justice. He submits that the show cause notice is the offshoot of the report submitted by the Employment Officer and unless the report is set aside, the petitioner cannot have any defence. He submits that the Tribunal, however did not consider this aspect and mechanically proceeded with the matter and held that when once the show cause notice is given, it is incumbent on the part of the petitioner to submit an explanation and accordingly directed the petitioner to submit explanation, on which final orders shall be passed. The learned counsel for the petitioner would also submit that the allegations relate to irregularities in sponsoring the candidates in the year 1978 and the petitioner's involvement is not at all established and it is only on the inference that the Junior Assistant of the office, has manipulated the name of the petitioner to be included in the list; and for the lapses or irregularities committed by the Employment Officer, the petitioner shall not be victimized.

4 . On the other hand, the learned Government Pleader submits that when once show cause notice is given, it is open for the petitioner to submit his explanation.

5. In this regard, we have heard the learned counsel for the parties at length.

6 . The narration of the events would show that the petitioner was appointed on 23.4.1982 on the minimum scale of pay and it is now stated by the learned counsel

for the petitioner that the petitioner continues to draw the same scale as applicable in 1978, without any revision or increments.

7. In view of the above submissions, the issue that arises for consideration is, whether the disposal of the O.A., directing the petitioner to submit an explanation, is sustainable in law?

8. Admittedly, the report was submitted by the Employment Officer without giving any opportunity to the petitioner and it is passed on mere surmises and conjectures. Consequent to this report of the Employment Officer, the petitioner was issued with show cause notice of termination. When once it is found that the very report is baseless and is in gross violation of the principles of natural justice, consequently the show cause notice would automatically fall to ground. It is also not the case of the respondents that petitioner was given an opportunity and that he cannot complain of violation of principles of natural justice. Further we also find that the sponsorship took place in the year 1978 and after many rounds of litigation, petitioner was appointed on 23.4.1982 and nearly 23 years have lapsed after his appointment and at this juncture, it will not be proper to interfere with the matter.

9. Accordingly, we set aside the order of the Tribunal and also the report of the 3<sup>rd</sup> respondent – District Employment Officer, Nellore dated 24.8.1993 and consequently the show cause notice of termination. Petitioner shall be continued in service, as if he has been in regular appointment from 23.4.1982 and he shall be given benefit of pay as revised from time to time and he shall also be given notional increments up to the date of filing the present writ petition i.e., 19.7.1999 and thereafter fiscal monetary benefits shall be released.

10. The arrears arising out of the pay fixation shall be paid within a period of three months from the date of receipt of a copy of this order.

11. The writ petition is allowed. No order as to costs.

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G.Bikshapathy,J.

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P.S.Narayana,J.

25<sup>th</sup> April, 2005.

AVS/KM

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the Acting Chief Justice on this the Monday  
Twenty fifth day of April, two thousand and five.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Registrar,

A.P Administrative Tribunal, Hyderabad.

2 The Divisional Forest Officer , Nellore District,  
Nellore .

3 The District Employment Officer Nellore District,  
Nellore.

4 The Govt. of A.P, Forest Department  
Hyderabad.

5. 2 CCs to G.P. for Services – I, A.P. High Court Building (OUT).

6. 2 CD copies

**THE HON'BLE MR JUSTICE G. BIKSHAPATHY**  
**and**  
**THE HON'BLE MR JUSTICE P.S.NARAYANA**

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25<sup>th</sup> April, 2005.

